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UNITED NATIONS DECADE OF INTERNATIONAL LAW

Report of the Working Group on the United Nations Decade of International Law

Chairman: Mr. Ernst K. Martens (Germany)

I. INTRODUCTION

1. The General Assembly, in its resolution 48/30 of 9 December 1993, requested the Working Group on the United Nations Decade of International Law to continue its work at the forty-ninth session in accordance with its mandate and methods of work.

2. Pursuant to that resolution, the Sixth Committee reestablished the Working Group on the United Nations Decade of International Law and, at its 6th meeting, on 5 October 1994, elected Mr. Ernst K. Martens (Germany) Chairman of the Working Group.

3. The Working Group had before it the report of the Secretary-General on the item (A/49/323 and Add.1 and 2), containing an analysis of the replies received in accordance with resolution 48/30, in which the General Assembly had requested the Secretary-General to submit to it at its forty-ninth session a report on the implementation of the programme for the activities for the second term (1993-1994) of the Decade, together with views on possible activities for the next term of the Decade. The report further contained a survey of new activities of the United Nations relevant to the progressive development of international law and its codification, prepared pursuant to paragraph 6 of resolution 48/30, and, as an annex, the revised guidelines for military manuals and instructions on the protection of the environment in times of armed conflict, prepared by the International Committee of the Red Cross (ICRC) pursuant to paragraph 13 of the same resolution.

4. The Working Group held three meetings between 2 and 11 November during which it discussed the implementation of the programme of activities for the second term (1993-1994) of the Decade, in conjunction with the report of the Secretary-General, as well as the possible programme of activities for the next

term of the Decade (1995-1996). In this context, the discussion focused mainly on the revised guidelines for military manuals and instructions on the protection of the environment in times of armed conflict and on the state of preparation of the United Nations Congress on Public International Law. As a result of that discussion, the Working Group agreed on a programme of activities for the third term (1995-1996) of the United Nations Decade of International Law.

II. EXCHANGE OF VIEWS RELATED TO THE REVISED GUIDELINES FOR MILITARY MANUALS AND INSTRUCTIONS ON THE PROTECTION OF THE ENVIRONMENT IN TIMES OF ARMED CONFLICT

5. In accordance with paragraph 13 of General Assembly resolution 48/30, the report of the Secretary-General on the item (A/49/323 and Add.1 and 2) contained as an annex the revised guidelines for military manuals and instructions on the protection of the environment in times of armed conflict, prepared by ICRC. At the suggestion of several delegations, the Working Group invited the observer for ICRC to elaborate on aspects of the revised guidelines.

6. The observer for ICRC pointed out that the new version of the guidelines took into account comments made by States thereon and transmitted to ICRC in accordance with paragraphs 12 and 13 of General Assembly resolution 48/30. In this connection, she gave examples of paragraphs of the guidelines which had been modified or simplified. The Committee hoped that the General Assembly would take note of the draft guidelines and that they would be forwarded by the Secretary-General to States for incorporation in their national military manuals. Rather than being an exercise in codification, she said, the guidelines constituted a dissemination text aimed at providing practical instructions for the implementation of international obligations by military commanders and other military officers in the field of environmental protection and humanitarian law. In this connection she noted that an open-ended group of government experts was scheduled to meet at Geneva from 23 to 27 January 1995, as a follow-up to the International Conference on the Protection of War Victims convened by the Government of Switzerland at Geneva from 30 August to 1 September 1993 and in order to consider issues such as the use of military manuals as tools for promoting respect for international humanitarian law and the protection of the environment in non-international armed conflicts. The observer further indicated the readiness of ICRC to continue working in this area, in matters such as the interpretation and classification of existing rules, the harmonization of definitions contained in various international instruments, the applicability during armed conflicts of rules of environmental law designed for times of peace, as well as to report on the information submitted by States concerning the incorporation of the guidelines in their military manuals. The Committee would also be prepared to convene in 1996, if need be, a meeting of government experts for further consideration of relevant issues which required in-depth analysis. The observer also suggested that the inclusion in the programme of activities for 1995-1996 of provisions dealing with the dissemination and other aspects of international humanitarian law could be considered and that relevant issues of international humanitarian law could also be examined in the framework of the United Nations Congress on Public International Law.

7. Delegations commended ICRC for the preparation of the revised set of guidelines for military manuals and its work in the field of humanitarian law.

8. Some delegations took the view that the future draft resolution relating to the decade could reflect some of the suggestions made by the observer for ICRC, in particular the suggestion that the guidelines for military manuals and instructions on the protection of the environment in times of armed conflict be taken note of, recommended to States for incorporation in national military manuals and disseminated effectively. It was also said that the draft resolution should invite ICRC to continue its work in this field and to submit a report on relevant activities in this area to the Secretary-General to be communicated to States, and that support should be given to the proposal of ICRC to convene in 1996 a meeting of government experts to deal with relevant aspects of this issue. It was further suggested that the question of the protection of the environment in times of armed conflict should be dealt with in a separate annex to the report to be prepared in 1995 by the Secretary-General and that the programme for the next term of the United Nations Decade of International Law should contain a reference to humanitarian law and environmental protection in times of armed conflict. In this connection, it was suggested to declare one of the years of the Decade "Year of Humanitarian Law".

9. Other delegations pointed out that questions regarding the contents of the future draft resolution on the Decade should be addressed in the course of informal negotiations on its text. Some also considered that the question of the protection of the environment in times of armed conflict, including possible replies of States on this issue, should not be dealt with separately in an annex to the report of the Secretary-General. They recalled that, according to the agreement reached in the Sixth Committee, the reports of the Secretary-General on the question of the Decade should be presented in the form of an analytical summary, an approach which had proved particularly useful and had been reflected in resolutions previously adopted under the item.

III. EXCHANGE OF VIEWS ON ARRANGEMENTS FOR THE UNITED NATIONS CONGRESS ON PUBLIC INTERNATIONAL LAW

10. In accordance with paragraph 10 of General Assembly resolution 48/30, the Secretariat informed the Working Group of the state of preparations for the United Nations Congress on Public International Law.

11. Regarding the selection of lecturers, the Secretariat indicated that it had prepared tables of proposed candidates on a country-by-country basis and forwarded them to the chairmen of the five regional groups. In the case of several regional groups, the number of candidates exceeded, sometimes quite appreciably, the figure of five lecturers to which each regional group was, in principle, entitled in accordance with the original plan of the Secretariat. This plan envisaged that five lecturers, one from each regional group, would address the Congress every day - amounting to a total of five lecturers per regional group for the five working days - so as to leave sufficient time for questions and comments from the floor and thus promote a dialogue among the largest possible number of participants. However, in order to make room for a larger number of lecturers, the Secretariat was now envisaging the addition of a

moderator to the five lecturers originally contemplated for each of the five working days.

12. The Secretariat, upon being informed that some regional groups wished to entrust it with the selection of the lecturers and moderators, expressed readiness to do so on the understanding that those regional groups which preferred to identify themselves their respective moderators and lecturers would communicate the relevant information to the Secretariat at the earliest possible date. In conducting the selection process, the Secretariat would bear in mind the need to ensure the representation of all major legal systems and all geographical regions, the desirability of selecting no more than one lecturer of a given nationality (a possible exception being the host State), the need to strike appropriate gender and linguistic balances and an appropriate balance between the various segments of the international legal profession, and the need to ensure adequate representation of each of the topics relevant to the main goals of the United Nations Decade of International Law. In that connection, some delegations pointed out that some of the criteria proposed seemed to be out of place in a meeting of a scientific nature. Others supported the above criteria as appropriate under the circumstances.

13. The Secretariat suggested that, in order to make room for as large a number of lecturers as possible despite space and financial constraints, arrangements should be made for the holding of informal meetings outside the official working hours of the Congress (from 9 to 10 a.m. and from 6 to 8 p.m.), without interpretation services, and that in selecting lecturers for such informal meetings, the criteria referred to in paragraph 12 above should be applied with flexibility. These suggestions met with general agreement in the Working Group. Some delegations suggested that informal meetings could also be held during official working hours of the Congress. Reservations were expressed with regard to the holding of meetings without interpretation services.

14. Referring to the wide interest in participation by prominent international lawyers, some delegations expressed the hope that the Secretariat would use the greatest possible flexibility in organizing the work of the Congress, including the possibility of further increasing the number of lecturers. Some suggestions were made in this regard, including shortening the length of interventions, encouraging lecturers to submit written papers which would only require brief oral presentation and organizing sessions in the form of panels.

15. Concerning the topics to be addressed at the Congress, some delegations suggested that United Nations sanctions as a tool for the peaceful settlement of disputes would be an appropriate topic for discussion under the theme relating to the peaceful settlement of disputes. Other delegations questioned the advisability of addressing in the framework of the Congress an issue with controversial political aspects.

16. The Secretariat indicated that it would continue to keep Member States informed of the state of preparations of the Congress.

IV. PROGRAMME OF ACTIVITIES FOR THE THIRD TERM (1995-1996) OF THE UNITED NATIONS DECADE OF INTERNATIONAL LAW

17. On the proposal of its Chairman, the Working Group generally agreed that the programme for the third term of the Decade should be similar to that of the previous term (General Assembly resolution 47/32, annex), subject to the following changes:

(a) An editorial change in paragraph 4 of section III, to take into account the fact that the report of the Secretary-General entitled "An Agenda for Peace" had already been considered in the General Assembly;

(b) The inclusion in section IV of a new paragraph 5 (bis) (para. 6 in the proposed programme annexed hereto, which would elaborate on an issue referred to in paragraph 5 of section IV (namely, special training in international law for military personnel and cooperation in this respect between States and ICRC) and would encourage States to foster the teaching and dissemination of the principles governing the protection of the environment in times of armed conflict and contemplate the possibility that States make use, in this connection, of the revised version of the guidelines for military manuals and instructions prepared by ICRC, taking into account the views of Governments, annexed to the report of the Secretary-General (A/49/323);

(c) The inclusion in section IV of a paragraph 8 (bis) (para. 10 in the proposed programme annexed hereto) as a follow-up to a provision in the programme of activities for the first term of the Decade (1990-1992) which called for a wider dissemination of the case law or jurisprudence of the International Court of Justice and resulted in the issuance by the Secretariat of the publication Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice (1949-1991). Paragraph 8 (bis) would invite the Secretariat to update that publication during the next term of the Decade, taking into account the jurisprudence of the International Court of Justice during the quinquennium following 1991, in all the official languages of the Organization and within the existing overall level of appropriations;

(d) A reformulation of paragraph 3 of Section V, on the question of the United Nations Congress on Public International Law, to reflect the current stage of preparation of the Congress.

18. It was agreed that the International Institute of Humanitarian Law would be included in the list of institutions mentioned in paragraph 5 of section IV of the programme.

ANNEX

Programme for the activities for the third term (1995-1996) of the United Nations Decade of International Law

I. PROMOTION OF THE ACCEPTANCE OF AND RESPECT FOR THE PRINCIPLES OF INTERNATIONAL LAW

1. The General Assembly, bearing in mind that maintenance of international peace and security is the underlying condition for the success of the implementation of the programme for the United Nations Decade of International Law, calls upon States to act in accordance with international law, and particularly the Charter of the United Nations, and encourages States and international organizations to promote the acceptance of and respect for the principles of international law.

2. States are invited to consider, if they have not yet done so, becoming parties to existing multilateral treaties, in particular those relevant to the progressive development of international law and its codification. International organizations under whose auspices such treaties are concluded are invited to indicate whether they publish periodic reports on the status of ratifications of and accessions to multilateral treaties, and if they do not, to indicate whether in their view such a process would be useful. Consideration should be given to the question of treaties which have not achieved wider participation or entered into force after a considerable lapse of time and the circumstances causing the situation.

3. States and international organizations are encouraged to provide assistance and technical advice to States, in particular to developing countries, to facilitate their participation in the process of multilateral treaty-making, including their adherence to and implementation of multilateral treaties, in accordance with their national legal systems.

4. States are encouraged to report to the Secretary-General on ways and means provided for in the multilateral treaties to which they are parties, regarding the implementation of such treaties. International organizations are similarly encouraged to report to the Secretary-General on ways and means provided for by the multilateral treaties concluded under their auspices, regarding the implementation of such treaties. The Secretary-General is requested to prepare a report on the basis of this information and to submit it to the General Assembly.

II. PROMOTION OF MEANS AND METHODS FOR THE PEACEFUL SETTLEMENT OF DISPUTES BETWEEN STATES, INCLUDING RESORT TO AND FULL RESPECT FOR THE INTERNATIONAL COURT OF JUSTICE

1. States, the United Nations system of organizations and regional organizations, including the Asian-African Legal Consultative Committee, as well as the International Law Association, the Institute of International Law, the Hispano-Luso-American Institute of International Law and other international

institutions working in the field of international law, and national societies of international law, are invited to study the means and methods for the peaceful settlement of disputes between States, including resort to and full respect for the International Court of Justice, and to present suggestions for the promotion thereof to the Sixth Committee.

2. Taking into account the suggestions mentioned in paragraph 1 of the present section and with due regard to the recommendations contained in the report of the Secretary-General entitled "An Agenda for Peace", a/ the Sixth Committee should consider, where appropriate, on the basis of a report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, or of the Working Group on the United Nations Decade of International Law, the following questions:

(a) Strengthening the use of means and methods for the peaceful settlement of disputes, with particular attention to the role to be played by the United Nations, as well as methods for early identification and prevention of disputes and their containment;

(b) Procedures for the peaceful settlement of disputes arising in specific areas of international law;

(c) Ways and means of encouraging greater recognition of the role of the International Court of Justice and its wider use in the peaceful settlement of disputes;

(d) Enhancement of cooperation of regional organizations with the United Nations system of organizations in respect of the peaceful settlement of disputes;

(e) Wider use of the Permanent Court of Arbitration.

III. ENCOURAGEMENT OF THE PROGRESSIVE DEVELOPMENT OF INTERNATIONAL LAW AND ITS CODIFICATION

1. International organizations, including the United Nations system of organizations and regional organizations, are invited to submit to the Secretary-General of the United Nations summary information regarding the programme and results of their work relevant to the progressive development of international law and its codification, including their suggestions for future work in their specialized field, with an indication of the appropriate forum to undertake such work. Similarly, the Secretary-General is requested to prepare a report on the relevant activities of the United Nations, including those of the International Law Commission. Such information should be presented in a report by the Secretary-General to the Sixth Committee.

2. On the basis of the information mentioned in paragraph 1 of the present section, States are invited to submit suggestions for consideration by the Sixth Committee and, as appropriate, recommendations. In particular, efforts should be made to identify areas of international law which might be ripe for progressive development of codification.

3. The Sixth Committee should study, taking into account General Assembly resolution 684 (VII) of 6 November 1952, b/ its coordinating role with respect, inter alia, to the drafting of provisions of a legal nature and the consistent use of legal terminology in international instruments adopted by the General Assembly. States are invited to present proposals in this regard to the Sixth Committee.

4. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization should continue to study possible measures to strengthen the United Nations system for the maintenance of international peace and security. In that context, the Special Committee should bear in mind the debate within the United Nations, particularly within the General Assembly, on the report of the Secretary-General entitled "An Agenda for Peace".

IV. ENCOURAGEMENT OF THE TEACHING, STUDY, DISSEMINATION AND WIDER APPRECIATION OF INTERNATIONAL LAW

1. The Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law should, in the context of the Decade, continue to formulate, as appropriate and in a timely manner, relevant guidelines for the Programme's activities and report to the Sixth Committee on the activities carried out under the Programme in accordance with such guidelines. Special emphasis should be given to supporting academic and professional institutions already carrying out research and education in international law, as well as to encouraging the establishment of such institutions where they might not exist, particularly in the developing countries. States and other public or private bodies are encouraged to contribute to the strengthening of the Programme.

2. States should encourage their educational institutions to introduce courses in international law for students studying law, political science, social sciences and other relevant disciplines; they should study the possibility of introducing topics of international law in the curricula of schools at the primary and secondary levels. Cooperation between institutions at the university level among developing countries, on the one hand, and their cooperation with those of developed countries, on the other, should be encouraged.

3. States should consider convening conferences of experts at the national and regional levels in order to study the question of preparing model curricula and materials for courses in international law, training of teachers in international law, preparation of textbooks on international law and the use of modern technology to facilitate the teaching of and research in international law.

4. States, the United Nations system of organizations and regional organizations should consider organizing seminars, symposia, training courses, lectures and meetings and undertaking studies on various aspects of international law.

5. States are encouraged to organize special training in international law for legal professionals, including judges, and personnel of ministries of foreign affairs and other relevant ministries as well as military personnel. The United Nations Institute for Training and Research, the United Nations Educational, Scientific and Cultural Organization, The Hague Academy of International Law, the International Institute of Humanitarian Law, regional organizations and the International Committee of the Red Cross are invited to continue cooperating in this respect with States.

6. In connection with the training of military personnel, States are encouraged to foster the teaching and dissemination of the principles governing the protection of the environment in times of armed conflict and should consider the possibility of making use of the guidelines for military manuals and instructions prepared by the International Committee of the Red Cross. c/

7. Cooperation among developing countries, as well as between developed and developing countries, in particular among those persons who are involved in the practice of international law, for exchanging experience and for mutual assistance in the field of international law, including assistance in providing textbooks and manuals of international law, is encouraged.

8. In order to make better known the practice of international law, States and international and regional organizations should endeavour to publish, if they have not done so, summaries, repertories or yearbooks of their practice.

9. States and international organizations should encourage the publication of important international legal instruments and studies by highly qualified publicists, bearing in mind the possibility of assistance from private sources.

10. The Secretary-General of the United Nations, in cooperation with the Registry of the International Court of Justice, is encouraged to update the publication Summaries of the Judgments, Advisory Opinions and Orders of the International Court of Justice (1949-1991), in all the official languages of the Organization and within the existing overall level of appropriations.

11. Other international courts and tribunals, including the European Court of Human Rights and the Inter-American Court of Human Rights, are invited to disseminate more widely their judgements and advisory opinions, and to consider preparing thematic or analytical summaries thereof.

12. International organizations are requested to publish treaties concluded under their auspices, if they have not yet done so. Timely publication of the United Nations Treaty Series is encouraged and efforts directed towards adopting an electronic form of publication should be continued. Timely publication of the United Nations Juridical Yearbook is also encouraged.

V. PROCEDURES AND ORGANIZATIONAL ASPECTS

1. The Sixth Committee, working primarily through its Working Group on the United Nations Decade of International Law and with the assistance of the Secretariat, will be the coordinating body of the programme for the Decade. The question of the use of an intra-sessional, inter-sessional or existing body to carry out specific activities of the programme may be considered by the General Assembly.

2. The Sixth Committee is requested to continue to prepare the programme of activities for the Decade.

3. The Secretariat should proceed with the organization of the United Nations Congress on Public International Law to be held from 13 to 17 March 1995, within existing resources and assisted by voluntary contributions, taking into account the guidance provided at the forty-eighth and forty-ninth sessions of the General Assembly, and keep the Member States informed of the status of the preparations.

4. All organizations and institutions referred to and invited to submit reports to the Secretary-General under sections I to IV above are requested to submit interim or final reports preferably at the fiftieth session but not later than the fifty-first session of the General Assembly.

5. States are encouraged to establish, as necessary, national, subregional and regional committees which may assist in the implementation of the programme for the Decade. Non-governmental organizations are encouraged to promote the purposes of the Decade within the fields of their activities, as appropriate.

6. It is recognized that, within the existing overall level of appropriations, adequate financing for the implementation of the programme for the Decade is necessary and should be provided. Voluntary contributions from Governments, international organizations and other sources, including the private sector, would be useful and are strongly encouraged. To this end, the establishment of a trust fund to be administered by the Secretary-General might be considered by the General Assembly.

Notes

a/ A/47/277-S/24111.

b/ See annex II to the rules of procedure of the General Assembly (A/520/Rev.15).

c/ A/49/323, annex.